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Case #163-2024: Monitoring Inquiry – Limbic Arc, LLC

BBB NATIONAL PROGRAMS

Direct Selling Self-Regulatory Council
Case #163-2024: Monitoring Inquiry – Limbic Arc, LLC

Company Description

Limbic Arc, LLC (“Limbic Arc” or the “Company”) is a direct selling company founded in 2019 and based in Utah that offers a health-related technology product and nutritional supplements to its subscriber affiliates.

Background

The Direct Selling Self-Regulatory Council (“DSSRC”) is a national advertising self-regulation program administered by BBB National Programs. This inquiry was commenced by DSSRC pursuant to its ongoing independent monitoring of product and income claims in the direct selling industry.

This inquiry included two earnings claims and nine product performance claims. DSSRC was concerned that the representative claims below communicated the message that Company salesforce members can generally expect to earn significant income from the Limbic Arc business opportunity and that the Company's products are efficacious in addressing serious health-related conditions. The social media posts were disseminated on Facebook, Instagram, and YouTube.

The claims identified by DSSRC in this inquiry were as follows:

Earnings Claims

- "I'm on my way to financial freedom. You can be on your way too. You can't just sit back & hope your financial problems will change. Change, of any kind, takes action. Change your quality of life. What are you waiting for??"
- "Taking an opportunity to be your own boss may be just the answer. It isn't for everyone. Some folks are quite comfortable being productivity drones, trading hours for salary. If, on the other hand, the idea of having true time freedom and financial flexibility sounds appealing to you, click here to learn more about I have achieved that, and how I have helped others do it too."

Product Performance Claims

- "Asthma resolved in less than 4 months."
- "About 10 years ago I was diagnosed with asthma and it's been really concerning because it gets worse every single year and I've been using this technology, Limbic Arc, developed Dr. Cook...provides my body with information and this information seems to be working because after three and a half months using the technology my asthma symptoms of the tightness in my chest and the coughing, inflammation, hard to breathe sometimes I don't have anymore. It's totally gone."
 - Video caption: "With this amazing technology the health problem with asthma disappears in less than 4 months."
- "I am 66 and nine months ago I almost retired, I was depressed, stressed, had memory problems, chronic neck pain, HIGH blood pressure and just felt SO OLD and on April 10th, 2019 I got an invitation to join a Zoom and it was mind blowing to me."

Everyone there was giving their testimonials and they felt GREAT. I wanted to feel like they did, I was tired of not being myself and feeling like life was a huge chore.

SOOO... I had to try it!! I was not looking for a business. I wanted my life back and in two hours with this new technology, my life changed, YEP... 2 hours!!"

- "This was so ME before Limbic Arc

I am stress free and NO depression!"

- "Today, lost 9lbs in 1 month without dieting! 🎉🥳"

Size 18w today, old pants was size 20w.

Today, I am on Limbic Arc 📱 Infoboosts🚀 : Custom/with Anti- Cancer ingredients, Prosperity and Detox...

P.S. I am still dealing with cancer and on chemo meds.

That will not stop me from feeling physically, emotionally, mentally and spiritually FABULOUS with Limbic Arc"

- "Struggling with seasonal allergies? 🤧"

Spring and Fall are times that many people struggle with allergy type symptoms and it's miserable!

In the fall, ragweed is the most common allergen followed by:

Dust mites.

Pollen.

Pet dander. 🐾🐱

Mold.

Cigarette smoke.

Stuffy nose, sneezing, wheezing, watery eyes, runny nose, skin rashes....misery.

Here are my favorite products that support allergy responses and get you through the season in a lot more comfort! ❤️"

- “Limbic Arc software libraries contain collections of virtual ingredients—called InfoBoosts—designed to energetically address inflammation, your immune system, mental focus, increased energy, and much more.”
- “People that I know are getting relief for inflammation, chronic pain, lack of energy and sleep issues. All by using the Quantum energy technology from Limbic Arc.”
- “One of my many health problems- I was diagnosed with CPRS in Mar 2016 after almost 1 year of not knowing what was going on. I hit the top of my foot on a leg of a stool and within 5 days it was so black and very swollen. Xrays showed no breaks.

Finally foot Dr sent me to neurologist where this was diagnosed and that it has no cure and not much for treatment options and not many Drs even know about it. It is rare and can happen to anyone with minor injury...

I have spent the better part of this time in a wheel chair. I can walk a little but not much and I do pay for it when I do. So spend most of my time at home with my foot up and cold with ice packs and a fan blowing on it, even when I sleep. It is a hot burning pain and if I let my foot get hot breaks out with burn blisters and the pain is much more severe.

I am over the moon with the result from the Limbic Arc Quantum Energy App. Swelling is coming way down and color is getting better. My toes are touching the floor and have not done that in the five years. I have not been in my chair at all this last week. I need to build back muscle but that is going good and in one set I walked 200 steps yesterday. ...

It is helping me with my lungs as well and making breathing much better but that is for another day.”

Company Position

In responding to DSSRC’s Notice of Inquiry, the Company did not attempt to substantiate the claims communicated in the 11 social media posts that were the subject of this inquiry. Rather, the Company stated that it would reach out to the salesforce members and request that they remove the posts in question.

The Company also noted that all but two of the posts identified by DSSRC were communicated in 2020 or earlier, which demonstrates that current Limbic Arc salesforce members have been making a conscious effort to adhere to the principles of compliant claim dissemination.

Earnings Claims

The Company disputed DSSRC’s position that “financial freedom” and “financial flexibility” claims are inherently problematic and can be qualified by directing consumers and prospective salesforce members to the Company’s income disclosure statement (IDS). Notwithstanding, Limbic Arc expressly prohibits the term from being used by its salesforce members in marketing materials and has drafted its Company policies accordingly.

More specifically, Limbic Arc amended its policies last year and specifically states that the phrase “financial freedom” has become toxic in the regulatory environment and is never permitted.

With respect to the two subject earnings claims, the Company informed DSSRC that the account of one of the individuals responsible for one of the earnings claims identified by DSSRC was terminated in November 2021, and that although Limbic Arc attempted to contact the individual at her most recent email address, the Company was unsuccessful in having the post removed.

The Company explained that the second earnings claim post at issue was disseminated by an active Limbic Arc salesforce member. The Company reached out to the salesforce member requesting that the post be taken down as it is in violation Limbic Arc’s policies. The Company has since disabled the account of the salesforce member because she was unresponsive to Limbic Arc’s request to remove the post.

Limbic Arc provided DSSRC with copies of its communication to the two salesforce members.

Product Performance Claims

The Company agreed that the nine product performance claims identified by DSSRC may be erroneously construed by consumers as meaning that Limbic Arc is a medical device, which was not the Company’s intention.

Limbic Arc informed DSSRC that the product performance claims were all communicated by inactive salesforce members that have not been affiliated with the Company for several years.¹ As such, the Company expressed the difficulty in having the posts removed despite its exhaustive efforts in attempting to contact the individuals who were responsible for posting the claims on social media.

Regarding the one YouTube video at issue, Limbic Arc explained that the product performance claim originated from a corporate promotional video that was discontinued several years ago. Unfortunately, before Limbic discontinued the video, the salesforce member

reposted it. Although the account of the salesforce member was terminated almost three years ago, the Company informed DSSRC that it was successful in disabling the video.

Limbic Arc provided DSSRC with copies of correspondence that was sent to all of the salesforce members responsible for the product performance claims requesting that the posts be removed.

Analysis

Earnings Claims

While DSSRC was disappointed that the two subject earnings claims continue to be publicly accessible by consumers and potential salesforce members, it recognized the good faith actions taken by Limbic Arc to attempt to contact the individuals responsible for the earnings claims at issue and have them removed. DSSRC agreed that the Company's efforts to remove these posts were necessary and appropriate.

Section 6 of DSSRC's Guidance on Earnings Claims for the Direct Selling Industry (the "DSSRC Guidance") states that while DSSRC will evaluate any claim based upon the context in which the claim appears and the potential net impression of such claim to the audience, some words or phrases carry a particularly high risk of being misleading to consumers when communicated in a general context. Such words and phrases include but are not limited to "financial freedom," and "time freedom."

DSSRC notes that the challenge with salesforce members using terms such as financial freedom and financial flexibility is that these phrases convey different implied messages to different people. For example, financial freedom may signify retirement for some, freedom from debt for others, and for some it means having sufficient income each month to cover expenses, save, and indulge in some pleasures. Notwithstanding, it is a fundamental tenet of advertising law that an advertiser has the burden to support any reasonable interpretations of its claims. As such, DSSRC believes that, unless otherwise qualified, it would be reasonable for prospective salesforce members to interpret a claim of financial freedom or financial flexibility as meaning that they will earn enough income to live comfortably without being overly dependent on a regular job or income source.

In the absence of evidence supporting such an interpretation, DSSRC concluded that the claims of financial freedom and financial flexibility were not appropriate.²

Product Performance Claims

Although Limbic Arc facilitated the removal of the one YouTube video that was identified in the inquiry (and which included the claim: "... three and a half months using the technology my asthma symptoms of the tightness in my chest and the coughing, inflammation, hard to breathe sometimes I don't have anymore."), DSSRC remained concerned that the eight other posts communicating unsupported product performance claims continue to be publicly accessible despite the Company's genuine attempts to have the posts removed.

DSSRC determined that the remaining product performance posts communicate to consumers that the Limbic Arc product can effectively treat several serious health conditions and that in the absence of reliable, competent scientific evidence proving the truth of the representations, the claims were inappropriately communicated.

As the FTC notes in its 2022 Health Products Compliance Guidance ("the FTC Guidance"), while there is an expectation that advertisers have a reasonable basis for all product claims, the standard of substantiation for health-related product claims is particularly rigorous. The FTC has defined the health claim substantiation standard as requiring "competent and reliable scientific evidence" in the form of "tests, analyses, research, or studies that (1) have been conducted and evaluated in an objective manner by experts in the relevant disease, condition, or function to which the representation relates; and (2) are generally accepted in the profession to yield accurate and reliable results." Health claim substantiation evidence must generally take the form of randomized, controlled human clinical trials ("RCT"), with animal and in vitro studies generally being insufficient without RCT confirmation, and anecdotal evidence being insufficient.

As DSSRC has noted in previous inquiries, when a direct selling company is made aware of an improper income claim that was made by an individual that was an active salesforce member when the claim was made but is no longer affiliated with the company, DSSRC acknowledges that the direct selling company may not be able to require the individual to remove the claim. In that instance, DSSRC nonetheless recommends that the direct selling company make a bona fide, good faith effort to have the improper claim or post removed and to provide DSSRC with evidence of its good faith efforts to contact the individual responsible for disseminating the post.

Although DSSRC was appreciative of the good faith intentions of Limbic Arc to reach out to the inactive salesforce members who were responsible for disseminating the social media posts at issue and have them disabled, it was recommended that the Company take additional steps to remove such claims from the public domain including utilizing the mechanism that the Facebook and Instagram platforms may have for removal of trademark or copyright violations.³

Moreover, it was recommended that Limbic Arc provide copies of the correspondence sent to those platforms to DSSRC as a demonstration that it has made a bona fide good faith effort to have the improper claim removed from social media. If the Company is still

unable to have the post removed, DSSRC also suggests that the Company consider adding a comment on the post at issue to inform the public that the subject claim has not been authorized by the company.

Conclusion

While DSSRC recognized the good faith actions taken by Limbic Arc to remove the posts at issue in this inquiry, it remained concerned that 10 of the 11 posts remain publicly accessible.

With respect to the posts that are still accessible to the public, DSSRC recommended that the Company take additional steps to remove such claims from the public domain including utilizing the mechanism that Facebook and Instagram may provide for removal of trademark or copyright violations.

Lastly, DSSRC recommends that Limbic Arc provide copies of the correspondence sent to those platforms as a demonstration that it has made a bona fide good faith effort to have the improper claims removed. If the Company is unable to have the posts removed, DSSRC suggests that Limbic Arc also consider adding a comment on the posts at issue to inform the public that the claim has not been authorized by the Company.

Company Statement

“Limbic Arc, Inc. is dedicated to maintaining the highest standards of integrity by supporting the Direct Selling Association’s Code of Ethics. Transparency is crucial for setting clear expectations with our Affiliates and prospective Affiliates, and we take this responsibility seriously.

We are actively addressing any concerns raised by the DSSRC and will comply with the DSSRC’s recommendations above. We will do this by reaching out to the Affiliates involved via email, direct messages, and post comments requesting the removal of non-compliant posts from the platforms where they appear. We have also requested removal of these posts to the respective platforms. Our efforts have already resulted in the removal of over a third of these posts, and we are continuing to work on resolving the remaining issues.

We will keep the DSSRC informed of our actions, including providing copies of our communications with the Affiliates responsible for these posts and a detailed spreadsheet of our efforts and progress.

Limbic Arc, Inc. remains committed to self-regulation within the industry and to ensuring the accuracy of product and income claims for the benefit of our Affiliates and prospective Affiliates.”

(Case #163, closed on 05/22/24)

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[1] The Company advised DSSRC that four of the nine product performance posts originated from one inactive salesforce member.

[2] Despite Limbic Arc’s misgivings regarding the appropriateness of the term financial freedom, DSSRC acknowledged that in its corporate policy the Company has prohibited salesforce members from using the term.

[3] If the subject claim occurs on a platform without a reporting mechanism, DSSRC recommends that the company should also contact the platform in writing and request removal of the subject claim or post.

6.26.24

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